

EXHIBIT A

JACK L. SANDERSON
June 18, 2010

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, as Subrogee
of Glen Hunter,

Plaintiff,

vs.

Case No. 2:08 cv 11150

Hon. Denise Page Hood

ELECTROLUX HOME PRODUCTS,
INC., and HOME DEPOT U.S.A.,
INC.,

Mag. Judge R. Stephen Whalen

Defendants.

The Deposition of JACK L. SANDERSON,
Taken at 2026 Plaza Drive,
Benton Harbor, Michigan,
Commencing at 8:52 a.m.,
Friday, June 18, 2010,
Before Peggy S. Savage, CSR-4189, RPR.

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1 Benton Harbor, Michigan

2 Friday, June 18, 2010

3 8:52 a.m.

4

5 JACK L. SANDERSON,

6 was thereupon called as a witness herein, and after
7 having first been duly sworn to testify to the truth,
8 the whole truth and nothing but the truth, was
9 examined and testified as follows:

10 EXAMINATION

11 BY MS. EZELL:

12 Q. Mr. Sanderson, did you receive a Notice of Deposition
13 today?

14 A. Not today, no.

15 Q. Regarding your deposition for today.

16 A. Yes.

17 Q. And you were given notice. Is this a copy -- will you
18 mark this, please.

19 MARKED FOR IDENTIFICATION

20 DEPOSITION EXHIBIT 1

21 8:52 a.m.

22 BY MS. EZELL:

23 Q. Mr. Sanderson, have you received a copy of what has
24 been handed to you as Exhibit 1 to your deposition?
25 Did you receive a copy of that?

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1 the boxes of these, and it is my intention that just a
2 copy of the box would be marked as an exhibit. But
3 for purposes of trial, that the box and its contents
4 would be brought to trial and made available to
5 counsel. Can I get an agreement to that?

6 MR. HESSEN: You want me to agree today to
7 bring it to trial for sure in the event that counsel
8 needs it or am I going to get a request prior to
9 trial?

10 MS. EZELL: Well, this is the request, if
11 you'll agree; and if not, you'll get another request.

12 MR. HESSEN: I would -- I would like -- I'm
13 not disagreeing with you, but I would like you to
14 instruct trial counsel to send a request prior to
15 trial.

16 MS. EZELL: All right.

17 BY MS. EZELL:

18 Q. As you sit there today, do you have an understanding
19 as to whether or not Exhibit 7 was the recommended
20 ducting for the Hunter dryer?

21 A. There is an exception under the GE installation rules
22 that would permit it, yes.

23 MS. EZELL: Move to strike, non-responsive.

24 BY MS. EZELL:

25 Q. Do you have an understanding, as you sit there today,

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1 sir, whether or not Exhibit 7 was the recommended
2 ducting for the Hunter dryer?

3 A. I don't believe it's the recommended venting.

4 Q. All right, sir. Do you have an understanding, as you
5 sit there today, whether or not Exhibit 8 was the
6 recommended ducting for the Hunter dryer?

7 A. I don't believe it's the recommended venting.

8 Q. All right. Do you have an understanding, sir, as you
9 sit there today, as to whether or not the Hunter dryer
10 was installed with venting similar to Exhibit 7 or
11 Exhibit 8?

12 A. I think it would be very similar to both of those,
13 yeah.

14 Q. All right.

15 A. You're saying it's the same as both? I'm not sure
16 that those are exactly the same.

17 Q. I'm not saying anything. I just want to get your
18 answer.

19 MS. EZELL: So I would move to strike
20 everything starting with the word you.

21 BY MS. EZELL:

22 Q. The next thing along the wall is the Appliance Service
23 News, and we have three binders, starting in
24 August 1998 and going through April of 2010. In what
25 way has this periodical been of assistance to you in

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1 which dryers service methodology has changed affect
2 the opinions that you're prepared to render?

3 A. It's conceivable it might support my opinions
4 depending on which questions you ask.

5 Q. In what way would it support your opinions?

6 A. You may say has it always been done that way, and I
7 can say, well, let me look and see with an earlier
8 dryer or a later dryer if it's done that way before or
9 if it's still done that way later.

10 Q. What aspect of service are you referring to?

11 A. It could be any kind of service. It's a service
12 manual.

13 Q. As you sit here right now, do you have any affirmative
14 opinions with regard to change in service approach,
15 instruction, or methodology that is relevant to the
16 opinions that you're prepared to render in the Hunter
17 case?

18 A. I couldn't give you one just standing here, because I
19 don't know what questions you might ask or what things
20 you might challenge me on.

21 Q. Yes, sir.

22 A. So I don't know the answer to that. There's not any
23 way to know the answer to that.

24 Q. Yes. And my question was, with regard to your
25 affirmative opinions. So if I was to ask you, and at

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1 some point I will, what are your opinions in this
2 case, do you have opinions that relate to the
3 evolution of approach to service with regard to the
4 dryers and the Electrolux company?

5 A. As it stands right now, I don't see that service is
6 specifically an issue in this, so I would have to say
7 no. You may argue that it is and then I would have to
8 change my opinion.

9 Q. All right. So you may have something to respond to,
10 but affirmatively you have no opinions with regard to
11 service; is that fair?

12 A. I think that's probably fair.

13 Q. All right, sir. We have another copy of ANSI Z 21.5.1
14 with flags. Is there anything new to be gained from
15 this? Are there flags on any points we haven't
16 previously discussed?

17 A. Maybe.

18 MS. EZELL: All right. You can go ahead
19 and mark this one.

20 MARKED FOR IDENTIFICATION

21 DEPOSITION EXHIBIT 15

22 10:26 a.m.

23 THE WITNESS: Actually, it did bring
24 something to mind that I had not flagged in the other
25 one.

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1 of the Hunters' dryer, so I guess I really haven't
2 reviewed looking for those things.

3 Q. Yes, sir. But as you sit here today, that's the only
4 one that you have in front of mind?

5 A. Well, yes and it's -- it come to mind because you
6 asked the question, and the way you asked the question
7 was about that specifically, and we were talking about
8 the seal, the felt. There may be other ones, but I --
9 I just don't recall them off the top of my head.

10 Q. Yes, sir. And to your way of thinking, as you sit
11 there today, has Electrolux made any changes to their
12 equipment or their parts that would have prevented the
13 fire which occurred in the Hunter dryer since the time
14 of manufacture of that dryer?

15 A. I think so.

16 Q. Tell me when and tell me what.

17 A. Oh, I'd have to look at the parts manual to see when.
18 I can't tell you off the top of my head. It may be
19 2007.

20 Q. I'm going to hand you the Electrolux parts manual
21 binder and see if that helps you.

22 MARKED FOR IDENTIFICATION

23 DEPOSITION EXHIBIT 18

24 10:48 a.m.

25 THE WITNESS: It first appears in 2007.

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1 BY MS. EZELL:

2 Q. All right. And what first appears in 2007?

3 A. It's a component that they referred to as a heater
4 shield baffle.

5 Q. Okay. Does it have a part number?

6 A. 3204254.

7 Q. And in what way would that have prevented the fire
8 which occurred in the Hunter dryer?

9 A. I don't know that we can say it would have prevented
10 it. I think maybe it makes it less likely.

11 Q. All right, sir. In what way does part 3204254 heater
12 shield baffle make the fire which occurred in the
13 Hunter dryer less likely?

14 A. It tends to provide a space farther from an ignition
15 source where lint that passes through the back of the
16 drum can be caught. In other words, there's maybe a
17 less likelihood of lint accumulating in the heater pan
18 where it's pretty easy to ignite, instead it will
19 accumulate in the heater shield baffle. It also tends
20 to reduce, once lint gets in it, the number of
21 perforations in the back of the drum; and, therefore,
22 for the given amount of air that comes through, it
23 comes through at a higher velocity and may make it
24 less likely for lint to go from the drum into the
25 heater pan and baffle -- heater shield baffle.

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1 Q. Have you given me all the reasons in which that
2 component makes the fire in the Hunter dryer less
3 likely?

4 A. I think so.

5 Q. All right. Is there -- have you done any testing or
6 evaluation with that component added to a Hunter dryer
7 in order to evaluate whether or not a fire was or was
8 not less likely?

9 A. We have not.

10 Q. Setting aside Electrolux and their product changes and
11 additional equipment, is there any additional
12 equipment or parts that have been manufactured by you
13 or by anybody, that you're aware of, that would have
14 prevented the fire that occurred in the Hunter dryer?

15 A. Well, I can't answer the question whether I know it
16 would prevent -- it would have prevented the fire in
17 the Hunter dryer, but there is someone, and I don't
18 know who it is, that's manufacturing an add-on device
19 for dryers that gives you an indicator light if you
20 don't have good air flow through it, but I -- and I've
21 seen it, but I don't have one, and I'm not even sure
22 where I've seen it. But your question brings that to
23 mind, and that might have. I don't really know.

24 Q. All right. So as you sit here, to a reasonable degree
25 of scientific certainty, you have no idea whether or

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1 not the indicator light about air flow would or would
2 not have prevented the fire, correct?

3 A. That's correct, we've never tested one. I've never
4 seen one.

5 Q. Yes, sir. In fact, an indicator light doesn't prevent
6 anything, does it?

7 A. No. It gives an indication of a problem to a
8 consumer.

9 Q. Right. And if this is a consumer that has had other
10 indications of a problem, an indicator light is just
11 another sign that they can ignore?

12 A. If they have other indications of a problem, I guess
13 it would be another thing that they could ignore.

14 Q. All right, sir. And you've never purchased an
15 indicator light?

16 A. I have not.

17 Q. You've never seen an indicator light?

18 A. I have not.

19 Q. As you sit there, you don't know the manufacturer of
20 the indicator light?

21 A. I don't.

22 Q. And you don't know what adding an indicator light to a
23 dryer could do as far as adverse impacts on the
24 performance or the safety of a dryer?

25 A. I don't, no.

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1 maybe there's 250 more than Electrolux. I don't know
2 what that number would be. But that way you could
3 give some -- there would be testing of the data. I'm
4 not a statistician, but I've read enough about
5 statistics to know that you need to have good data or
6 to verify your data, and it looks to me like they
7 haven't done any of that.

8 Q. All right, sir. You have two binders here, which I
9 have marked as Exhibits 15 and 16, entitled Electrolux
10 Expert Reports. What is the purpose of these binders
11 being included in your materials?

12 A. Go back and clarify a little bit on the Exponent
13 report. Those are some answers that I gave you as to
14 why there's difficulties with the studies and why they
15 may be underreported, but there are other issues, and
16 I'm not limiting myself to the ones we discussed.

17 Now, what do you want to know about the
18 expert reports?

19 Q. Well, what else is wrong with the studies?

20 A. We know that Electrolux does their best to discourage
21 people, apparently, from reporting claims. And if you
22 call to report a claim, Electrolux will tell you we
23 only accept a claim if you have the model number and
24 the serial number, which is burned off on the vast
25 majority of dryers. And so they, it looks like

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1 Q. Tests done either by you or at your direction?

2 A. Yes.

3 Q. And were these initiated as a result of your being
4 retained for the Hunter matter?

5 A. I don't know that they're specifically because of the
6 Hunter matter. There's, you know, 300 or so of these
7 that we're involved with, and so they're just
8 generally.

9 Q. And 300 or so tests?

10 A. 300 or so cases.

11 Q. 300 or so cases that you're involved with.

12 A. Actually, probably closer to 400 now.

13 Q. And do you have a list of those cases?

14 A. Not in this file, no.

15 Q. Yes, sir. I'd like to request a list of those cases,
16 if you could get that for me at the break.

17 A. I don't think that will happen real quickly.

18 Q. You don't keep a list of the cases that you're working
19 on?

20 A. No.

21 Q. Do you have your testimony list as required by the
22 federal rules?

23 A. Yes.

24 Q. All right. Could I have that at the break?

25 A. It's in one of those green binders.

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1 the opinions that you have with regard to the
2 functioning of the Hunter dryer either prior to or
3 during the fire that occurred in this case?

4 A. Well, I guess it helps explain why problems with
5 seals, in particular, can cause problems in dryers.

6 Q. And that's in this manual?

7 A. I think we would find things that pertain to that,
8 yes.

9 Q. Okay. And I see that tab 4 has a number of flags. Is
10 that because that is the manual that pertains to our
11 dryer?

12 A. Oh, I don't know that these were done specifically for
13 this dryer, no.

14 Q. Okay.

15 A. It's to help us find things in it.

16 Q. All right. What, in those -- in those materials,
17 relates to the issues that you've identified with
18 regard to the seals -- or the seal?

19 A. Okay. In the 2003 Technical Training Manual, on page
20 33, there's kind of a catchall statement that
21 Mr. Bajzek and Mr. King tend to ignore, I think.

22 Q. In what? I'm sorry. And where do they ignore it?

23 A. In their analysis of why lint accumulates in
24 Electrolux dryers.

25 Q. And what is that statement?

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1 A. It says the vent restriction problem will cause a
2 buildup of lint inside the cabinet of the dryer. The
3 fan will force lint out at the seams of the vent tube
4 inside the machine and into the cabinet. This can be
5 a fire hazard. If you observe a large amount of lint
6 inside the cabinet, this could be an indication of a
7 vent restriction. If the dryer is operating normally
8 and you can find no fault with the venting system or
9 anything else, the fault may lie elsewhere.

10 Q. And, I'm sorry, did that say something about seals?

11 A. It says, in effect, that vent restrictions isn't the
12 only thing that can cause lint accumulation in a dryer
13 cabinet.

14 Q. Yes. Is the word seal --

15 A. The word seal is not in that paragraph.

16 Q. Is the word seal in that document as it relates to
17 lint accumulation?

18 A. I don't see seal in there, no.

19 Q. All right, sir. I think that's all I need from that.
20 If I could just look at it real quick.

21 A. Sure.

22 MS. EZELL: When we copy Exhibit 18, can we
23 try to get the tabs? They're pretty clearly written.
24 I don't know if we will be able to or not.

25 BY MS. EZELL:

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1 A. This is 18.

2 Q. All right, sir.

3 A. On page 47.

4 Q. And what is there of particular relevance or import?

5 A. There is a description here that talks about customers
6 complaining of it taking too long to dry clothes,
7 which Mr. Bajzek, Mr. King have -- have opined, I
8 think, previously that that is a clear indication that
9 there is a vent restriction problem, and this refutes
10 that claim.

11 Q. In what way?

12 A. They say it's a vent restriction. Here they explain
13 that the cause is not enough air restriction in the
14 exhaust system causes extended drying times.

15 Q. Okay. And what does that mean for you in regard to
16 the opinions that you have in this case?

17 A. It means that Mr. Bajzek's claim, that I suspect we
18 will hear, is that if Mrs. Hunter said that she
19 couldn't get her clothes dry sometimes in one cycle --
20 although she only said she only put it on for
21 15 minutes, which I wouldn't expect it to get dry in
22 that length of time -- but he may be saying that the
23 fact it doesn't get dry means there's a vent
24 restriction, and, in fact, the Electrolux manuals say
25 the lack of vent restriction can cause the same

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1 Q. Okay.

2 A. But your summary of what I said earlier is incorrect.

3 Q. The record, as stated before, will speak for itself
4 and it is accurate as stated; fair enough?

5 A. That's fine.

6 Q. All right.

7 A. There's an indication in 2004 that there's a changed
8 air duct seal and that it was changed previously in
9 2001, along with a felt glides -- felt -- upper and
10 lower felt and glide. So they would have had a duct
11 seal that was changed, redesigned in 2001, also. And
12 now it's been redesigned again in 2004.

13 Q. All right. Have we covered now -- I mean, we've had
14 that marked as an exhibit. Have we covered now all of
15 the bulletins that pre-date the manufacture of the
16 Hunter dryer now that we're up to 2004? Are they in
17 chronological order?

18 A. Yes.

19 Q. Okay. Is there anything else in that binder that you
20 have in front of you then that relates to designs or
21 changes that you believe should have been implemented
22 prior to the design or manufacture of the Hunter dryer
23 that would have prevented the fire which occurred in
24 this case?

25 A. Could you read that back to me, please? I'm sorry.

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1 (The requested portion of the record was
2 read by the reporter at 12:19 p.m. as
3 follows: "Okay. Is there anything else in
4 that binder that you have in front of you
5 then that relates to designs or changes
6 that you believe should have been
7 implemented prior to the design or
8 manufacture of the Hunter dryer that would
9 have prevented the fire which occurred in
10 this case?"

11 THE WITNESS: Well, yes, the redesigned
12 front seal, the thicker upper -- actually, it's just
13 the upper pad would have prevented air leaks and poor
14 air flow, and also the subsequent inclusion of the
15 heater shield baffle I think probably would also
16 discourage accumulation of lint in the heater panel
17 where it's more likely to be ignited.

18 BY MS. EZELL:

19 Q. What date did the redesign front seal to prevent
20 leaking occur?

21 A. It was announced in December of 2004.

22 Q. And you indicated, however, that there were issues in
23 2008. Was this the same -- were these issues with
24 this redesign?

25 A. Actually, it is, as listed, as being a change in the

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1 felt seal to a 30 to 70 blend of wool and polyester
2 instead of a 50/50 blend of wool and polyester that
3 caused the increased wear. So I don't know if you'd
4 call that a redesign or a different -- fabricated out
5 of a different material.

6 Q. Okay. And let's just get the time line correct. So
7 prior to December of 2004, what was the fabrication?
8 What was the fabrication blend, if you know?

9 A. I don't know.

10 Q. Okay. So in December of 2004, what was the
11 fabrication?

12 A. Actually, the way they described it as being thicker,
13 they don't say that the -- the fabrication was
14 different.

15 Q. Okay. When did this 50/50 modification occur?

16 A. Well, it says it affects dryers serial number X --
17 XD628. So that would be, what, July of 2006.

18 Q. So between December of 2004 and July of 2006, do you
19 believe that the redesign front seal was an
20 appropriate and reasonable front seal?

21 A. The history of problems with it seems to be much less,
22 yes.

23 Q. Okay. So as you sit here today, you have no
24 criticisms of the Electrolux front seal on the dryers
25 between December of 2004 and July of 2006?

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1 A. Right.

2 Q. Okay. All right. Are we -- I think we're going
3 through the -- there were no additional changes other
4 than the redesign of the front seal and the heater
5 shield baffle that would have made the fire, in your
6 opinion, less likely, which occurred after the date of
7 manufacture; is that correct? Electrolux changes.

8 A. Well, other than the design to the new Affinity style.

9 Q. And the Affinity, yes. Thank you. And as it relates
10 to one of these, either the Affinity, the front seal,
11 or the heater shield baffle, or all of them in
12 combination, you have not done any testing to
13 determine whether or not they would have performed
14 different than the Hunter dryer?

15 A. Well, no.

16 Q. Okay.

17 A. That's not exactly true.

18 Q. Let me separate it out. You haven't done any testing
19 on the Affinity?

20 A. No.

21 Q. You haven't done any testing on the heater shield
22 baffle?

23 A. No.

24 Q. Okay. So you have done testing with regard to the
25 December 2004 through July 2006 redesign front seal on

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1 Electrolux dryers?

2 A. No.

3 Q. All right. What testing have you done?

4 A. We have simulated an air leak to see the effect in the
5 dryer.

6 Q. Which dryer?

7 A. In the Electrolux dryer of this generic type, gas or
8 air.

9 Q. What year, approximately, if you know?

10 A. Maybe 2007.

11 Q. All right. And is that what is contained in these
12 test binders?

13 A. Among other things.

14 Q. Okay. So we'll -- we'll talk about that when we get
15 there. And based on -- but let me just ask this
16 question, because I will go through with you the setup
17 for those tests and what you discovered when you did
18 those tests. But based on the testing that you did
19 and the simulated air leak in a generic gas dryer, do
20 you have an opinion that the redesign front seal would
21 have prevented or made less likely the fire in the
22 Hunter dryer?

23 A. Well, that's not specifically the purpose of the test,
24 but I think I could say yes to that.

25 Q. All right. Did you, in your testing -- and we'll go

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1 photographs from the Hunter case I believe are on
2 there, but those photographs are also on CDs that are
3 in -- or DVDs that are in the green binders that are
4 in front of you.

5 Q. Okay. All right. Are there any materials contained
6 on these, on group Exhibit 6, CDs or DVDs, whatever
7 they are, that is not contained in paper format or on
8 DVDs in the Hunter binder?

9 A. There's probably a lot more parts manuals that aren't
10 here.

11 Q. Okay. All right. Thank you.

12 All right. Now, do you remember when you
13 were first retained to work in the Hunter case?

14 A. Not without looking at one of my binders.

15 Q. All right. Would it be the little blue binder?

16 A. Actually, it would be number 1 of 1 in the green
17 ones --

18 Q. All right.

19 A. -- is probably the one I'd like to see.

20 Q. All right. Here you go.

21 A. Yes.

22 Q. All right. When were you first retained?

23 A. January 30th, 2006.

24 Q. Okay. And when did you issue your first report in
25 this case?

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1 A. August 22, 2006.

2 Q. Okay. By whom were you retained?

3 A. Mary Williams of State Farm Insurance Company.

4 Q. All right. And what specifically were you asked to do
5 at the initial retention?

6 A. We just listed it as a C&O.

7 Q. What does that mean?

8 A. Cause and origin.

9 Q. And what is your understanding, when you're retained
10 to do a C&O, of what the scope and the breadth of that
11 engagement includes?

12 A. We've listed it as a cause and origin, but the
13 additional information indicated that it was a dryer,
14 which by the way she thought was a Whirlpool, and we
15 would be -- typically, our understanding would be that
16 we would go over, talk with her, and examine the
17 scene. If it does appear that there's reason to
18 believe that -- that it is, for instance, a dryer or
19 any specific product, and if there might be
20 subrogation possibilities, that we would then probably
21 notify our client in this case -- Mary Williams does
22 that sort of thing -- and tell them, because she would
23 be the one typically to put someone else on notice,
24 and then we would go back and continue our
25 investigation. So the first kind of every -- every

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1 do a lot of things that involve construction issues
2 with products. It could be a product, it could be
3 the -- actually the use of the product in
4 landlord/tenants situations, could be installers of
5 the product, could be maintenance workers that have
6 touched the products. It really could be quite a wide
7 list. It could be the seller of the product.

8 Q. And of all of the potential targets of your
9 subrogation investigation, what percentage is the
10 product manufacturer relative to all of the others?

11 MR. HESSEN: Object to the form of the
12 question.

13 BY MS. EZELL:

14 Q. You can answer.

15 A. I don't know if I can. That's not something we track.
16 I don't know off the top of my head. Now, in the last
17 few years, there were so many Electrolux dryer fires
18 that whatever statistics we'd normally have would be
19 really skewed by that. Prior to Electrolux burning
20 down the world, I would say it would be far more
21 frequent that we would be dealing with tradesmen of
22 some sort.

23 Q. How long has Electrolux been burning down the world?

24 A. We investigated our first Electrolux fire in 2004, I
25 think.

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1 the previous year, I don't recall off the top of my
2 head.

3 Q. Do you have anger toward Electrolux?

4 A. No, I don't have anger toward them. I wish that they
5 would recognize that they have a problem with their
6 product and -- and do something about it. Because
7 there's, according to their dryer census, 1,800 people
8 have had fires with their dryers, and certainly an
9 awful lot of them are fires that have been caused by
10 Electrolux dryers. And I think that when we look at
11 other people's recalls -- there was a recall the other
12 day for somebody's product that it caused 12 fires.
13 You know, here's 1,800 fires. I have dealt with
14 people who have had fires for 30-some years now, and I
15 know what an interruption that is in their life, and I
16 think that's unfortunate that that continues to
17 happen.

18 Q. And do you think that -- do you have an opinion, based
19 upon science, as to whether or not Electrolux has a
20 disproportionate number of dryer fires since 2004
21 relative to other dryer manufacturers?

22 A. I can only say what our experience is, and we see way
23 more of them. I don't know what the order of it is.
24 I would say --

25 Q. Would you agree with me --

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1 else?

2 A. I don't think there is anything published of that
3 nature; or if it has, I've certainly never seen it and
4 I don't frankly know where it would be published. In
5 peer review, I guess you could say that I -- I speak
6 with Travelers. I know they know pretty much what
7 their population of dryer fires is and they know that
8 Electrolux is, I think, 60 percent of their dryer
9 fires, something like that, in the last few years. I
10 don't know specifically what time frame that covers.
11 I know some other groups like ours that investigate
12 fires and examine products see vastly more numbers of
13 Electrolux dryers than anybody else's dryers. And to
14 a lesser extent, I get to other laboratories around
15 the country for examinations and so forth, and I -- I
16 can't always wander through their storage facility --
17 and I see where there's more Electrolux dryers there
18 than anybody else's. So that's the only way I have of
19 judging.

20 Q. Okay. So other than your conversations with your
21 insurance companies, your buddies, and your trips and
22 the various labs, do you have any scientific basis at
23 all for your belief that Electrolux fires represent
24 any portion of the market share, whether it's large or
25 small, of dryer fires?

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1 MR. HESSEN: Object to the form of the
2 question.

3 THE WITNESS: I think I've answered that
4 and I've explained what the basis is that I have. You
5 know, you can take that for what it's worth.

6 BY MS. EZELL:

7 Q. Yes, sir. And did you want me to read the question
8 back or do you remember what it was?

9 A. I believe I've answered it. Thank you.

10 Q. So you don't have any published literature about
11 relative dryer fires among all of the dryer
12 manufacturers?

13 A. I don't know that such a thing exists. If there is, I
14 haven't seen it.

15 Q. All right. And your perspective on this has been
16 based on your individual conversations and your tour
17 of facilities?

18 MR. HESSEN: It's been asked and answered.

19 MS. EZELL: I'm sorry?

20 MR. HESSEN: This has been asked and
21 answered.

22 MS. EZELL: Okay. Asked and answered is
23 not a form objection. If you could please abide by
24 the rules of the court and not lead the witness by the
25 type of objections that you provide, that would be

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1 most helpful, Counsel.

2 BY MS. EZELL:

3 Q. Do you remember my question, sir?

4 A. I remember answering it before.

5 Q. Shocker. Now, have you done -- have you set up any
6 sort of systematic approach to determinate relative
7 market share of dryer fires?

8 A. We have not done that.

9 Q. Have you consulted with statisticians or survey
10 samplers or modelers whose job it is to establish such
11 systematic approaches to evaluating these types of
12 events?

13 A. I have spoken informally with at least two different
14 insurance companies as to what their experience has
15 been, and Electrolux certainly has more than their
16 share with those insurance companies.

17 Q. Yes, sir. And it's not necessary for you to answer
18 all of my questions by saying I talked to insurance
19 companies and everybody says Electrolux has the most
20 fires. You've now said that in response to every
21 question that I've asked. My question is now about
22 your methodology and your rigor. And the -- your
23 opinion is crystal clear. Now I'm talking about what
24 did you bring to bear before you got there. Now we're
25 going to your method, okay? And my question is

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1 whether or not you have set up any systematic approach
2 to deciding that Electrolux has the most fires of any
3 dryer manufacturer, and I believe the answer to that
4 question, you've already indicated, is no?

5 A. I've told you what our basis is, and if you don't like
6 it, that's fine. That's the basis that I have. We
7 have not gone about making a study of that.

8 Q. Okay. Thank you.

9 A. If that will help you any.

10 Q. All right.

11 A. I can just say that anywhere you go, there are lots of
12 them.

13 Q. Yes, you've said that now, and I accept that. I'm not
14 arguing with that. What I'm trying to establish is --
15 and just so you're clear, as an expert, you don't get
16 to just say what you think. You have to say how you
17 got there. And what you think is clear. Now I'm
18 trying to establish how you got there, okay? And so
19 answering the questions about how you got there
20 doesn't take away at all from what you think. That
21 part has been made crystal clear.

22 A. Did I go wrong somewhere here? I thought at a
23 deposition you ask me questions and I answer them, or
24 is this a lecture of some sort that goes with it?

25 Q. That part right there, that you just did, is

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1 trying to find out if he's going to have additional
2 opinions. Is that what we're doing here?

3 MS. EZELL: Noted.

4 BY MS. EZELL:

5 Q. Do you remember the question?

6 A. No.

7 MS. EZELL: Do you want to read it back to
8 him.

9 (The requested portion of the record was
10 read by the reporter at 1:10 p.m. as
11 follows: "What steps of the scientific
12 method do you intend to utilize in order to
13 evaluate tests, confirm, and eliminate
14 possible error rates with regard to this
15 opinion which you've stated?"

16 THE WITNESS: Well, I think you asked me
17 what my experience was, and now you're saying are you
18 going to run some tests to find out if that's true,
19 and the answer is no, I have not had any intention of
20 running any tests nor have I had any intention to hire
21 a statistician to do so.

22 BY MS. EZELL:

23 Q. And you haven't done that, you haven't hired a
24 statistician and you haven't hired any kind of survey
25 research firm in order to evaluate your hypothesis

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1 with regard to this?

2 A. I have not. I don't think that's a hypothesis. You
3 asked me about this, and I told you what I'd seen.
4 You're making this into a theory of some sort, and I'm
5 just telling you this is my experience and what I've
6 seen. You can take it for what it's worth.

7 Q. Okay. So then am I to understand that this is not an
8 opinion that you hold to a reasonable degree of
9 scientific certainty, this is simply your observations
10 about who has hired you and what you've spent your
11 time doing since 2004?

12 MR. HESSEN: Object to the form of the
13 question.

14 MS. EZELL: Hold on. What's wrong with
15 that question?

16 MR. HESSEN: We've spent the last
17 20 minutes, probably a half an hour at this point, on
18 something that has nothing to do with this case, and
19 he's been answering the question, saying that this is
20 what his experience has been.

21 MS. EZELL: That's not a form objection.
22 I'm asking --

23 MR. HESSEN: You know, you don't have to be
24 happy with my objection.

25 MS. EZELL: No.

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1 Q. Generally. Do you generally bill for your services?

2 A. We try to.

3 Q. So without looking at this bill in particular, looking
4 at your bill across cases, generally, when you look at
5 a bill, does it show from the beginning of the case to
6 the last bill, date by date, you have entries for the
7 things that you've done, the events that have
8 occurred, and the time that you've billed for each of
9 those?

10 A. Typically, you would have that. The Electrolux matter
11 has involved so many different cases that it's
12 difficult to do that, because testing, as we've
13 discussed here, isn't done -- hasn't been done for a
14 specific case, but it has been done for a number of
15 cases. So we've tried to allocate that over a number
16 of cases, and sometimes we've been more successful
17 than others.

18 Q. Yes, sir. And you indicate on here that on 6/12 of
19 '06 you have a flat rate lab exam for \$750. Is that
20 an allocation fee for testing that you just described?

21 A. Probably not.

22 Q. What 6/12 of '06 laboratory examination of evidence --
23 oh, would that be the laboratory examination of
24 evidence in this case then?

25 A. It says laboratory examination of evidence and that is

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1 soon as it's issued, which I understand it's going to
2 be within the next day or two.

3 A. That one might be a little longer than that. Yours
4 will be today, I think, but theirs may be a little
5 longer than that.

6 Q. However, you could probably go in there and generate
7 an interim bill right now, though, couldn't you? I
8 mean, they're recorded; they just haven't been sent?

9 A. No.

10 Q. No?

11 A. I mean, it would take a while to do that.

12 Q. Do you put your time in on a regular basis and it's
13 just in the system and you can't gen up a draft bill?

14 A. We're not like attorneys. We're probably not that
15 close in accounting for our time.

16 Q. Yes, sir. Do you remember my question?

17 A. I think I answered it.

18 Q. Yes. So is the answer yes, you have the information
19 in the computer and you could print it out, or no, you
20 could not, as you sit here right now?

21 A. No, we do not have it in a computer where we could
22 print it out.

23 Q. When did you create the document entitled Our
24 Methodology, The Scientific Method?

25 A. I don't know. Probably last year.

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1 Q. I'm sorry?

2 A. Probably within the last year.

3 Q. Yes, sir. Was it within the last month?

4 A. Oh, not the whole thing. No.

5 Q. Explain that to me, please.

6 A. It's a computer document. We're continually adding
7 and taking things out of it, things like that.

8 Q. It's a living document that you edit on a regular
9 basis?

10 A. Well, yes.

11 Q. What was the impetus behind creating this document?

12 A. It's a document that goes with reports that we issue
13 in some other cases that list things that we've done
14 and how we go about them and things like that. But it
15 makes a nice guideline for attorneys to say, you know,
16 what did you do in this thing. We know that, you
17 know, Electrolux, you know, likes to file Daubert
18 challenges, so it makes a pretty good outline of what
19 we've done. I wouldn't say it's all inclusive, but it
20 shows a lot of things.

21 Q. All right. And since you've provided this document to
22 me in the Hunter case, have you gone through this
23 process with regard to your opinions as it relates to
24 this case?

25 A. Yes.

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1 Q. All of your opinions?

2 A. I believe so.

3 MR. HESSEN: All of his opinions in this
4 case?

5 MS. EZELL: In this case.

6 THE WITNESS: In this case, yes.

7 BY MS. EZELL:

8 Q. All right. And let's just briefly talk about those.
9 You originally issued opinions in August of 2006,
10 correct?

11 A. Yes.

12 Q. And subsequent to that, you issued opinions in a
13 letter dated August of 2009?

14 A. I believe those dates are right.

15 Q. My question is whether or not, since August of 2009,
16 you have modified, changed, or withdrawn or added to
17 the opinions published in the letter of August 2009?
18 Not what those modifications, changes, withdrawals, or
19 additions are, but just yes or no whether or not you
20 have made any such changes?

21 MS. EZELL: Let's just take a quick break
22 while he's doing that.

23 (Off the record at 1:41 p.m.)

24 (Back on the record at 1:42 p.m.)

25 THE WITNESS: I think the answer is yes.

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1 about those.

2 MR. HESSEN: That's fine.

3 MS. EZELL: If I can even do that today.
4 Although, I'm optimistic. And then we can take our
5 lunch break, if that's okay.

6 MR. HESSEN: I'm not advocating necessarily
7 to take a lunch break. Why don't we find out what's
8 going on with this answer, and then we can figure out
9 what we're going to do.

10 MS. EZELL: Can we go off for a second?

11 (Off the record at 1:45 p.m.)

12 (Back on the record at 1:45 p.m.)

13 BY MS. EZELL:

14 Q. Go ahead. All right. And could you, please, tell me,
15 in an orderly fashion, starting at the beginning of
16 your opinion, which each of the enumerated opinions,
17 one by one, what those modifications, changes,
18 withdrawals, retractions are.

19 A. I think the really only difference is in number 8,
20 where we said we have no information whether an
21 authorized service cleaner cleaned the Hunter dryer as
22 instructed, and we have confirmed that it has not been
23 cleaned.

24 MR. HESSEN: That's why I wanted you to
25 finish that.

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1 Q. Right.

2 A. We'd rather that they spray Halon in the room and
3 everything went out and we could see just exactly the
4 way it was, but that never happened.

5 Q. But is there anything else that happens like that,
6 that you can think of, other than them disassembling
7 the dryer?

8 A. Well, the fire itself does things that makes it more
9 difficult. Fire burns up evidence or it makes it hard
10 to reconstruct evidence. So the more extensive the
11 fire is, oftentimes the harder it is to reconstruct
12 it. So the quicker they get it out, the better we
13 like it.

14 Q. All right.

15 A. So that -- you know, it's a fire that did a fair
16 amount of damage for being a witnessed event and being
17 in the town, but it's in an area that the fire
18 department may not be the best.

19 Q. Okay. And I'm going to hand you what I've previously
20 marked as Exhibit 36 to your deposition, and I just
21 want you to confirm that that is, in fact, your 2006
22 report in this case; is that correct?

23 A. It appears to be.

24 Q. Okay. And would you agree with me --

25 A. Whoops. Wait a minute. Wait a minute. Yep.

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1 Q. Okay. And then it is true -- and we've discussed it
2 earlier -- that you also prepared and submitted a
3 report in 2009, correct?

4 A. That's correct.

5 Q. And the two things that you described to me, the fact
6 that the firemen disassembled the dryer and that fires
7 burn evidence, would be equally true in 2006 and 2009
8 for purposes of the Hunter case?

9 A. Yes.

10 Q. And those two facts would not justify any difference
11 of opinion between 2006 and 2009?

12 A. No.

13 Q. All right. Have you ever been found to be not
14 qualified for any reason to testify as an expert?

15 A. No.

16 Q. Have you ever, irrespective of your qualifications,
17 not been permitted to testify as an expert on any
18 subject matter?

19 A. Not that I'm aware of.

20 Q. Have you ever participated in a Daubert hearing, that
21 you're aware of, where the issue of the scope of your
22 testimony or the extent of your qualifications was
23 challenged?

24 A. Yes.

25 Q. How many times?

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1 pointing to that, as -- as we see with Mr. Bajzek, you
2 know, we are essentially in agreement as to what
3 happens with these lint ignition fires.

4 Q. So when you issued your report in 2006, it is true
5 that at least some of the 130 dryer fires that you
6 reviewed in the interim were available for you to
7 review but you did not review them, correct?

8 A. I'm sorry. I think that's a no, but I want to hear
9 the question again.

10 Q. In August of 2006, you had not reviewed any of these
11 130 other fires, correct?

12 A. Those are 130 fires that occurred after 2006, or we
13 examined those dryers after 2006.

14 Q. Right.

15 A. The fires might have been before, but they hadn't been
16 examined yet.

17 Q. That's exactly my question. The fires had occurred
18 prior to 2006 in some instances, but you did not
19 examine them until after 2006, correct?

20 A. I'd have to go back and look at them and see if they
21 occurred before 2006, but I suspect that some of them
22 had. It takes us about six or eight months to get
23 Electrolux to come and examine a dryer, so it's
24 entirely possible that some of them had.

25 Q. Okay. And a number of the Service Bulletins that you

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1 became more familiar with and a number of the
2 documents existed prior to the issuance of your 2006
3 report; isn't that correct?

4 A. I -- subsequently, we learned that they did. We had
5 not seen them.

6 Q. Whether you've seen them or not, they have been
7 published and were available prior to the date that
8 you issued this report?

9 A. Looking at the dates of them now, I assume that that
10 was the case.

11 Q. And you understand that in federal court, when you
12 issue a report, that that is a report that you are
13 signing off on as being a report issued to a
14 reasonable degree of scientific certainty?

15 A. Yes, but I -- to be perfectly frank, I didn't know it
16 was in federal court.

17 Q. You didn't know which -- which case this was or what
18 case you were working on?

19 A. I don't think a case had been filed at the time I
20 wrote that report.

21 Q. So whether it was or it wasn't, you don't know?

22 A. Are you talking about the original report?

23 Q. Yes, sir.

24 A. I'm sure it wasn't filed at that time.

25 Q. All right. So whether it was filed in federal court

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1 A. We thought we did, but we've learned that there's a
2 lot more material available out there.

3 Q. No, sir. Irrespective of whether or not you got it
4 wrong, did you engage in a rigorous methodology that
5 evaluated and eliminated other potential causes prior
6 to the issuance of your 2006 report?

7 A. Yes.

8 Q. And where is the evidence of that rigor and that
9 methodology? Is it on your billing statement; is that
10 where we would find it?

11 A. I'm not sure I know how to answer that. I suppose we
12 could go back and reconstruct all the dryers that
13 we've looked at and the things that we have examined
14 prior to that time, and I don't know what we would add
15 to that, but I suspect that we would add something.

16 Q. Okay. So I'm looking at Exhibit 3, the invoices tab.
17 And on the invoice, the first invoice which you
18 issued, which is your 2006 invoice, you have a number
19 of entries. The first one is contact with experts and
20 Electrolux, coordinate scene inspection, lab
21 examination, notification letters, then you traveled
22 to and from Livonia, then you did an initial on-site
23 inspection, then you traveled to and from Livonia.
24 You charged six hours to and from Livonia. So you
25 charge for travel time?

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1 A. We do.

2 Q. And then you did an on-site inspection, an interview
3 with Ms. Hunter, and a collection of evidence. You
4 did a phone interview with the fire department. You
5 did a flat-rate lab exam, and then you wrote your
6 report. And altogether, we've got 9, 10, 11, 18,
7 23 -- you have less than 30 hours; does that sound
8 about right? Exclusive of the flat-rate lab exam.

9 A. You're counting them, I can't see, but it sounds about
10 right.

11 Q. Okay. And the total invoice prior to your first
12 report, \$3,585; does that sound about right?

13 A. I don't think that's prior to it. I think that
14 includes it.

15 Q. Including, yes. Thank you. So that includes the
16 preparation of this first report; does that sound
17 right?

18 A. Yes.

19 Q. All right. But you were wrong?

20 A. I believe we were wrong.

21 Q. Okay. What day did you find out you were wrong?

22 A. I don't know that I can give you a day.

23 Q. Can you give me a month?

24 A. I don't know if I can give you a month.

25 Q. Why not?

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1 A. It's a little like asking when did I realize I was
2 bald. Maybe not until my grandson told me. You come
3 by knowledge gradually. And I think not long after --
4 not long after our 2006 report, we saw some dryers
5 that were very telling. This -- I think that dryer,
6 the Hunter dryer, was less than the 40th dryer that we
7 saw. And, of course, depending on which -- you know,
8 which dryer you see, if you see 40 that are just
9 burned to a crisp, you don't necessarily learn a whole
10 lot. If you see -- if you see some that are very
11 specific, then you start to learn more.

12 Not long after this, we realized that there
13 is another failure mode that we had not identified and
14 that was causing fires that were very similar to this,
15 and then we started seeing that it could cause this
16 same fire. But an accumulation then of saying, okay,
17 you know, what was happening with these fires -- with
18 these dryers really takes an accumulation of more of
19 them to see what's the common denominator. And the
20 common denominator we came to see was when the dryers
21 were manufactured. And when you first -- and when you
22 first see 40 of them, then that may not just jump
23 right out at you and say here's when -- here's when
24 these dryers were manufactured that we're having these
25 problems. After you've seen, you know, 150 or 200, or

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1 whatever it may be, and you start plotting them out,
2 apparent cause versus time that was manufactured, then
3 you have to go back and say, okay, what's different
4 now? Which is what led us into -- to go back to
5 research the company documents to see what was
6 different.

7 Had we looked for this, these company
8 documents at the time of our first report, even the
9 things that we found probably would not have spoken to
10 us and told us, oh, hey, here's something that you
11 should be looking for. So it's the accumulation. You
12 asked what's changed during the course of time. It is
13 the dryers that we've seen and it is the number of
14 dryers that we have seen.

15 Q. And do you recall how long elapsed between your moment
16 of -- your tipping point of understanding this new
17 scientific theory and your notifying Electrolux of
18 this new theory?

19 A. Well, we didn't notify Electrolux of this new theory.
20 We notified Mr. Johnson of the new theory when we
21 learned that this case was in litigation. And that
22 was on August 21st, actually, we talked to him within
23 probably a month of that time, and got a report out to
24 him.

25 Q. Okay. And how long between the moment of discovery of

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1 the inaccuracies in your first report and the
2 preparation of your second report?

3 A. I don't know that I know an answer to that. You're
4 back again to, you know, when did you know what you
5 knew. And as I said, not long after in 2006, we knew
6 that there was something else going on. In 2006
7 through 2007, I think we refined that and saw more
8 things that were happening with it. And someplace
9 along in there, actually that little article that you
10 saw in the Appliance Service News, is one of the
11 things that really tipped it to us and said, wait a
12 minute, there's a seal issue here. And then when we
13 went back and reviewed that and had an appreciation
14 for what it meant, probably would be, you know,
15 2007/2008 time frame.

16 Q. In this case, did you conduct the scene inspection or
17 did Nathan Dwyer do it?

18 A. Yes.

19 Q. You understand that was an/or?

20 A. It wasn't an/or. It was a yes. Both of us did.

21 Q. All right.

22 A. I was there initially and he was there when the
23 evidence was gathered.

24 Q. Okay. How did you become aware of the 130 Electrolux
25 dryers that you investigated between the time of your

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1 Q. All right. Did you, for purposes of the Hunter case,
2 sort out and only use, for purposes of your analysis,
3 those dryers that were installed with flexible duct
4 installation or all methods of installation?

5 A. We're looking at all the dryers that have lint fires,
6 and we're looking at them then to say, okay, how many
7 of those have foil vents, for instance, how many of
8 them are 15 months old or less.

9 Q. Thank you.

10 A. How many dryer fires occurred in the first ten
11 minutes.

12 Q. I'm all set.

13 A. I don't care. You're going to hear the rest of the
14 answer, because you don't seem to understand it.

15 Q. Whether I do or not, it doesn't matter. The record is
16 good.

17 So it would be safe to say, then, in order
18 to render the opinions that you've rendered in this
19 case, you did not take a subset of your database that
20 included gas dryers installed with flexible ducts that
21 were purchased new and that were two years old and do
22 your analysis based only on that subset; is that fair?

23 A. No. We would not -- we did not do our analysis only
24 on that subset.

25 Q. Okay. Thank you.

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1 A. But that would be a subset that we look at.

2 Q. Okay. Thank you. How long has Nathan Dwyer been with
3 your company?

4 A. Seven years.

5 Q. All right. Did he take any notes at his inspection?

6 A. He did.

7 Q. Did you take any notes at your inspection?

8 A. I did.

9 Q. Are those contained in these --

10 A. They are.

11 Q. -- green binders? Where are they?

12 A. Well, I think probably if you look at the one that's
13 open in front of you, where the -- where the -- you're
14 getting real close to it. Right there.

15 Q. Exam roster?

16 A. Where the plastic sticks out. Little bit farther.
17 Little bit farther. Little bit farther. Little --
18 right there. That's his notes, right there.

19 Q. All right. These are his notes?

20 A. Back up, you'll probably find mine. Back up the other
21 way, not forward.

22 Q. The typewritten notes are yours?

23 A. Look around in that area. I think -- go back another
24 page.

25 Q. Who interviewed the fire marshal?

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1 there. Her activities at the time of the fire that
2 led up to it, she came out of the basement to put her
3 dinner on and she went to get the laundry out of the
4 dryer and she saw smoke coming from the lint trap and
5 she went to call Consumers Energy. Before she could
6 call, she heard a whomp and leaned -- and leaned in
7 the door and she could see fire and the dryer door was
8 still open. She told me the load was put in probably
9 about ten minutes before the fire. The load was
10 sheets. The lint trap was in place. The dryer was a
11 year-and-a-half old. They had no previous problems or
12 service. It was purchased at Home Depot. The
13 occupants of the house were she and her husband and
14 two daughters, ages 31 and 24. And the house was new
15 when purchased. There was no electrical or mechanical
16 problems. Those are the things that she told me.

17 Q. Did you review the bill of sale for this dryer?

18 A. I've never seen the bill of sale for the dryer.

19 Q. Did you review the service records?

20 A. I don't think there were any service records.

21 Q. You did not review the owner's manual?

22 A. I believe it was burned up in the fire, but I think I
23 have a copy of it.

24 Q. You didn't review the original owner's manual?

25 A. I did not.

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1 A. I don't believe so. Naturally, when you didn't ask
2 about Mrs. Hunter, when I said Mr. Hunter, I reviewed
3 both of them because he's been deposed twice. I also
4 reviewed hers, and she's been deposed twice.

5 Q. Yes, you indicated that earlier today.

6 Have you read the testimony of Tom Bajzek?

7 A. I have.

8 Q. Have you read the testimony of Donald Duvall?

9 A. I did.

10 Q. What are the areas that you believe that you are
11 prepared to offer opinions with regard to in this
12 case? Just general areas of subject matter.

13 A. Fire cause and origin investigation. Electrical fire
14 investigation. Gas and fire investigation. Dryer
15 fire investigation, Electrolux dryers in particular.
16 Operations of the Electrolux dryers. Operation of the
17 dryers in particular, in general.

18 Q. You are not an engineer, correct?

19 A. That's correct.

20 Q. You are not a design engineer?

21 A. I am not.

22 Q. You're not an expert in design?

23 A. I never designed a dryer. Have designed a few
24 go-carts.

25 Q. But you're not an expert in design, and you don't hold

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1 yourself out to be an expert in design?

2 A. I do not.

3 Q. You're not an expert --

4 A. I would say that one area that I would say while not
5 an expert in design, I am certainly prepared to
6 comment on alternative designs between one dryer
7 manufacturer and another.

8 Q. Okay. And I'll make a note of that. You do not hold
9 yourself out -- well, do you hold yourself out as an
10 expert in human factors?

11 A. No.

12 Q. Ergonomics?

13 A. No.

14 Q. You're not prepared to offer any opinions in those
15 areas today?

16 A. No. When you say human factors, there are certain
17 things that I probably would qualify in. It's not the
18 things you normally think of as human factors. I
19 think in a couple of court cases that I was qualified
20 to talk about is reactions of people to fires, which,
21 as I recall a judge saying, is something that's kind
22 of a human factor, so it dances on that area. But not
23 what you traditionally think of as human factors.

24 Q. And that's not an issue in this case?

25 A. I don't believe so.

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1 Q. Okay. Are you an expert in warnings?

2 A. No.

3 Q. And are you prepared to offer any warnings opinions in
4 this case?

5 A. Well, there is a warning that -- that might be
6 appropriate if -- in light of Mr. Bajzek is claiming
7 that the problem is that there's a foil vent. Other
8 manufacturers put on warnings on their dryer in close
9 proximity to their vents saying what you should or
10 should not do, and it is something that Electrolux
11 does not do. So from that aspect, that might be
12 something about warnings that I might testify to the
13 fact that they don't put them on there.

14 Q. Have you already testified today that you don't
15 believe that the foil vent is in any way causally
16 related to the fire?

17 A. I've testified -- I don't think we have testified to
18 that. I have testified to the fact that I believe it
19 was permissible to use a foil vent. That was the
20 question I think you asked.

21 Q. Do you have an opinion as to whether or not it's
22 causally related to the fire?

23 A. I don't think it is.

24 Q. So if -- so if the foil vent is not causally related
25 to the fire, would it also be your opinion that a

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1 warning with regard to the foil vent would not have
2 been causally related to preventing any injuries or
3 damages associated with the fire?

4 A. That's probably true.

5 Q. Okay. So if you take away that warning, do you have
6 any other warnings that you contemplate discussing in
7 this case?

8 A. I don't believe so.

9 Q. All right. I did hand you your C.V., and I think it
10 was attached to some other stuff. Did we mark that as
11 an exhibit? You corrected me and told me that that
12 was not just your C.V., but it was some other things.

13 A. Yes.

14 Q. What's that exhibit number, please.

15 MR. HESSEN: I don't think it was -- was
16 yours marked?

17 MS. EZELL: Yeah, I gave him the marked
18 copy.

19 THE WITNESS: 34.

20 MS. EZELL: 34, okay.

21 BY MS. EZELL:

22 Q. So after having reviewed this, if you -- well, let me
23 ask you this. Strike all that. What is the
24 difference, as you understand it, between establishing
25 a fire cause and origin opinion and an opinion with

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1 regard to a design or manufacturing defect?

2 MR. HESSEN: Is the question what is the
3 difference; is that what the question was?

4 MS. EZELL: Yes.

5 THE WITNESS: I think that the
6 manufacturing or design defect would be a highly
7 refined cause analysis. In other words, it is taking
8 cause to a much deeper level -- level than sometimes
9 is necessary. I guess that's probably the best way I
10 could put it, is it is a more advanced or more
11 in-depth analysis of a specific aspect of the cause.

12 BY MS. EZELL:

13 Q. All right, sir. Do you have any training in the study
14 of plastics?

15 A. I do not.

16 Q. How about physics?

17 A. Well, I have a little. I had high school physics.

18 Q. I'm sorry. I apologize. All of my questions are
19 related to college or post-graduate education. How
20 about physics?

21 A. Thermodynamics would probably come under physics. I
22 did take a college course on thermodynamics.

23 Q. Yes, sir. Is that the mail order class that you took?

24 A. Yes, it was.

25 Q. Yes, sir. And did you have to do any kind of test

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1 after that?

2 A. I did.

3 Q. All right. And what sort of marking or college credit
4 did you receive for that?

5 A. I don't recall. I think it's strictly a pass/fail, as
6 best I can remember.

7 Q. And there was no pre-qualification in order to be
8 admitted into taking that class, was there, sir?

9 A. I don't remember.

10 Q. All right. You are not trained nor have you taken any
11 classes in mechanical engineering?

12 A. I have not.

13 Q. Structural engineering?

14 A. I have not.

15 Q. Industrial engineering?

16 A. Nope.

17 Q. Electrical engineering?

18 A. I've not taken any classes in it.

19 Q. Statistics?

20 A. No.

21 Q. Survey research?

22 A. I take that back. I did have a statistics class in
23 college.

24 Q. Intro to statistics or some sort of advanced
25 statistical regression analysis?

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1 A. I don't remember.

2 Q. All right, sir. How about survey research?

3 A. No.

4 Q. Warnings?

5 A. No.

6 Q. Human factors, we've already talked about that, but
7 have you been trained in that area?

8 A. No.

9 Q. How about psychology?

10 A. I think I took some college classes in that, too.

11 Q. But any sort of advanced --

12 A. No.

13 Q. -- training in that?

14 And do you have any sort of advanced
15 training or certification in consumer behavior?

16 A. No.

17 Q. All right. Could you tell me what a thought
18 experiment is?

19 A. Thought experiment is conceptual visualization of what
20 might happen in a given circumstance.

21 Q. And do thought experiments require any sort of
22 physical manifestation or recordation, as far as your
23 definition is concerned?

24 A. No. I would -- I would not think so. I would think
25 Einstein's thought experiment of riding on a light

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1 question specifically -- specifically not about
2 dryers -- was whether or not you can have a science
3 experiment -- a science -- a thought experiment where
4 you simply just think about something or whether or
5 not it is necessary to have rigor and design and
6 methodology that is written out in advance and
7 followed up on afterward or whether or not you just
8 close your eyes and think of something as you
9 understand the generic, non-dryer-related definition
10 of that term?

11 A. Well, I don't think it's necessary to publish
12 something. You know, I'm sure there's been a
13 gazillion thought experiments that have not been
14 published.

15 Q. I agree with you, but that has nothing to do with the
16 question.

17 A. They may lead to physical experiments that you could
18 perform, which would be a physical manifestation
19 and/or it may be an experiment that says that won't
20 work, which leads you to tell you no sense in doing a
21 physical experiment then. But yes, I think that that
22 experiment process, thinking about how things happen
23 and what may occur, is a very important part of
24 science.

25 Q. So why do you call it a thought experiment? Why don't

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1 one investigator or scientist could have the same
2 insight from the same insight. It does not
3 necessarily mean that it's provable at that point. It
4 may become provable later on.

5 Q. I'm sorry, provable is not my question. Provable and
6 repeatable are completely different issues in the
7 scientific method.

8 A. I'm sorry. I used provable, and I should have used
9 repeatable. But I think that --

10 Q. Are you honestly sitting there, sir, and telling me
11 that I could have a thought experiment, right here,
12 with my eyes closed, and then you could repeat it
13 without me in any way communicating what my -- my
14 thought experiment was?

15 A. No. I think you'd have to tell me about it, and I
16 could do the same thought experiment, and maybe I
17 would come up with the same results.

18 Q. So it is necessary to commit it to paper and to
19 outline the design of the thought experiment?

20 A. No.

21 Q. It isn't?

22 A. That's what I said.

23 Q. And this is an opinion that you hold to a reasonable
24 degree of methodological scientific certainty, that
25 you can conduct these experiments in your head and

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1 that that is a valid approach to problem solving in
2 your area of expertise?

3 A. It is an approach to allow you to visualize what can
4 happen, and then you may want to run tests after that,
5 on the basis of that thought experiment.

6 Q. Yes, sir.

7 A. Or you may learn, from the basis of that thought
8 experiment, here's why that won't work, and so we
9 won't do that.

10 Q. Yeah.

11 A. That's exactly -- that's what it's all about.

12 Q. Okay. So do you remember what my question was?

13 A. I don't think it was very intelligent, but I -- you'd
14 better give it to me again.

15 Q. Well, thank you, sir. Your commenting on my relative
16 intelligence is not necessarily part of the deposition
17 process, but it may be very informative for the court.
18 So feel free to continue and indulge in that.
19 However, I will ask the court reporter to read back to
20 you the question, and perhaps she could read it slower
21 for you so you can pay better attention.

22 (The requested portion of the record was
23 read by the reporter at 3:19 p.m. as
24 follows:

25 "And this is an opinion that you hold to a

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1 reasonable degree of methodological
2 scientific certainty, that you can conduct
3 these experiments in your head and that
4 that is a valid approach to problem solving
5 in your area of expertise?"

6 BY MS. EZELL:

7 Q. That's a yes-or-no question.

8 A. It is a method recommended and specified by NFPA 921,
9 Guide to Fire and Explosion Investigations, and it is
10 recognized as a way of approaching a scientific
11 problem. It is not the end all, be all of any
12 scientific endeavor, but it is a step sometimes on a
13 route.

14 Q. All right. So is the answer to my question yes then?

15 A. I don't think it's -- I don't think it can be answered
16 yes or no.

17 Q. And do you believe, as you sit there, that the way you
18 and I have discussed this thought experiment process
19 is the same way that NFPA 921 envisions the thought
20 experiment?

21 A. I do.

22 Q. All right.

23 (Off the record at 3:20 p.m.)

24 (Back on the record at 3:21 p.m.)

25 BY MS. EZELL:

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1 Q. You've never designed an appliance, have you, sir?

2 A. I have not.

3 Q. You've never designed any consumer product, have you?

4 A. No.

5 Q. Have you -- and you've never written a warning?

6 A. No.

7 Q. You did, however, use thought experiments with regard
8 to your lint accumulation opinions that you have
9 provided in the Hunter case?

10 A. I can think of one specifically.

11 Q. You indicated earlier that you are prepared to offer
12 opinions with regard to alternative designs. You have
13 already testified today with regard to alternative
14 designs. My question is whether or not you are
15 prepared to testify in this case about any alternative
16 designs that we have not already discussed in the
17 course of your deposition today?

18 A. Well, I think we've talked about them, yes.

19 Q. All right. All right, sir, if you could please
20 explain for me what your opinion is in this case with
21 regard to the -- well, if you have an opinion in this
22 case, sir, with regard to the seal in the dryer of the
23 Hunter Electrolux dryer.

24 A. My opinion is that the seal was too thin and
25 compressed and allowed a leak at the dryer which

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1 many of those loads are there. So there's a big
2 variable there. But we can say that it looks like a
3 year-and-a-half to two-and-a-half to three years it
4 seems to be when we first start seeing problems with
5 them.

6 Q. And what is the classification that you would give to
7 the dryer in the Hunter case? What do you call it?
8 Is it this year to this year? Is it a certain type?
9 What is that dryer for you?

10 A. It's a gas dryer manufactured in November of 2003.
11 It's a free-standing model.

12 Q. Is it --

13 A. I'm not sure what you mean by classification.

14 Q. Yes, sir. And this seal becoming a thin and
15 compressed issue, in your opinion, does it only exist
16 in the Hunters' dryer or does it exist across a -- a
17 range of Electrolux dryers?

18 A. By Electrolux's admission, it is dryers that are
19 manufactured between December of 2001 and I think it
20 was November of 2004.

21 Q. All right. So the --

22 A. And then, again, in 2000 -- whatever the -- 2008, or
23 whatever it is.

24 Q. Well, you would agree with me, wouldn't you, that
25 whatever happened in 2008 is irrelevant for purposes

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1 BY MS. EZELL:

2 Q. You're familiar with Angelo DiMonte, right?

3 A. Yep.

4 Q. And you sent him this e-mail on July 7th of 2006?

5 You're Jack at Fire Findings, right?

6 A. Right. I was just looking for a date. Yep.

7 Q. And this was one month before you released your

8 initial report, correct?

9 A. Right.

10 Q. And in this e-mail, it says, friction is still the
11 issue with Electrolux manufactured dryers, correct?

12 A. Yep.

13 Q. But doesn't it also say, we have not as yet duplicated
14 this event?

15 A. That's correct.

16 Q. But that you think we have an idea of how these fires
17 may be happening?

18 A. Yes.

19 Q. All right. So you were willing to opine about a
20 defect mechanism even though you could not duplicate
21 your theory?

22 A. Yes.

23 Q. And you didn't -- you didn't conduct any testing in
24 the one month between this e-mail and the report that
25 you issued where you were able to duplicate that, did

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1 Q. You understand fully well, sir, don't you, that you
2 were the one who was disclosed as the testifying
3 expert in this case?

4 A. I don't know that. I'm assuming, because I'm here,
5 that that's the case, but I don't know that.

6 Q. How many cases has Mr. Dwyer testified in?

7 A. I don't know.

8 Q. More than five?

9 A. I don't know. Maybe if it is, it's not many more.

10 Q. How many trials?

11 A. I don't know.

12 Q. None, right?

13 A. No, that's not true.

14 Q. Okay. Are you familiar with an article entitled
15 Analysis of Heating by Friction in Plastic Clothes
16 Dryer Components that was published in the Journal of
17 Failure Analysis and Prevention in 2007?

18 A. I believe I've read it.

19 Q. And is that included in any of these materials that
20 we've looked at today?

21 A. It would be in here someplace, yes.

22 Q. And that was authored by whom, if you recall?

23 A. Donald Duvall and Nelson Koopman, maybe. I don't
24 remember. Or maybe it was Tom Bajzek. I'm not sure
25 who it was. There were two authors from me aside.

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1 Q. And that article disagrees with your friction theory
2 from your first report; isn't that true?

3 A. It does.

4 Q. And the Electrolux experts in this case disagreed with
5 your friction theory in your first report; isn't that
6 true?

7 A. They did.

8 Q. And they were right?

9 A. That is a data point that we considered, and I think
10 that they are right.

11 Q. And, in fact, after you read that article and their
12 report, you figured out you were wrong?

13 A. That's correct, the timing would be after that is when
14 we realized that there are other mechanisms that are
15 involved.

16 Q. All right. In looking at your report in this case,
17 your first opinion is contained in the conclusion,
18 correct? Paragraph number 1. That the physical
19 evidence shows the fire resulted from ignition of lint
20 by the gas burner and was blown through the drum where
21 the burning pieces of lint ignited additional lint
22 that had accumulated in the vent duct; is that your
23 opinion?

24 A. Yes.

25 Q. Is that still your opinion today?

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1 Q. Okay. Did you ask the Hunters when the last time was
2 that they cleaned the lint filter?

3 A. I think that she told us she cleaned it between every
4 load.

5 Q. Did you ask her -- was this a specific part of your
6 inquiry of her when you interviewed her?

7 A. I know that I asked her if it was in place at the
8 time, and I think that she told me that's something
9 the people usually volunteer that they do that. But I
10 don't remember it specifically. It may be in
11 Mr. Dwyer's notes. He may have notes of that.

12 Q. In your opinion, point number 1, you have the word
13 lint pieces, right? What is the size of the lint
14 pieces to which you are referring?

15 A. Well, they can be various sizes. It depends on how
16 big a piece breaks off of the lint that's accumulated
17 there.

18 Q. And what testing have you done to verify what size
19 lint pieces are or are not capable of causing the
20 result that you've identified?

21 A. I can't imagine how you would do that, because as
22 pieces --

23 Q. Well, sir -- I'm sorry. We're starting to run out of
24 time. So the answer is -- what testing -- I haven't
25 done any. Because if you can't imagine, then you

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1 haven't done it, correct? You haven't done it?

2 A. I can't imagine how you do it. No, we have not done
3 it.

4 Q. So do you know what the density is of the lint pieces
5 you've described in opinion number 1?

6 A. No. It could be various densities.

7 Q. Okay. How do you know, without testing, that this
8 lint is capable of being blown through the dryer into
9 the vent duct?

10 A. Well, the Consumer Product Safety Commission study on
11 lint shows that. And if you take a look at the videos
12 that were given, you'll see lots of times where it
13 happened.

14 Q. The CPSC, have you looked at that test setup? Do you
15 understand those are not real dryers?

16 A. Those are not real dryers.

17 Q. Okay. So -- and in these videos, I'll see a piece of
18 lint that is the size that you opine occurred in the
19 Hunter case, and what will I see happen to it, and
20 I'll see a fire?

21 A. You'll see lint blowing through the dryer and into the
22 vent duct.

23 Q. And a fire?

24 A. You'll see a fire in the dryer, sure.

25 Q. Yeah. But will I see those same things happening at

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1 the same time; will I see a piece of lint going
2 through the dryer causing a fire like you opine
3 occurred in this case?

4 A. I don't know if you'll see one that ignites material
5 in the vent, the vent duct.

6 Q. Do you have a test number or something --

7 A. No.

8 Q. -- you can refer me to?

9 A. You just have to look at them. I don't know. We've
10 done a lot of those tests.

11 Q. It's your opinion that you have actually done a test
12 that duplicates what you believe happened in the
13 Hunter incident and you can't refer me to it?

14 A. Oh, we've not burned up a dryer and we've not
15 specifically allowed one to burn like the Hunters did,
16 no. We have started -- we've seen fires start in the
17 back of the dryer blow material through it and end up
18 in the vent duct, burn in the -- in the lint filter
19 and so forth. I have seen others that have done that
20 test where that has occurred.

21 Q. What other tests are you referring to?

22 A. I've seen ones done by the Wright Group. I've seen
23 ones done by Travelers Laboratories.

24 Q. And you've confirmed that those test setups were done
25 in such a way that they actually have applicability to

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1 the Hunter case?

2 A. It would be similar.

3 Q. And what similarity have you confirmed?

4 A. The same kind of dryers.

5 MR. HESSEN: I'm sorry. Same kind of
6 dryers?

7 THE WITNESS: Same kind of dryers.

8 BY MS. EZELL:

9 Q. Other than the same kind of dryers -- and by that I'm
10 assuming that you mean they were manufactured between
11 December of 2001 and November of 2004?

12 A. Not necessarily.

13 Q. So not even within this same time period that you've
14 identified as being the time period of relevance?

15 A. I don't know the answer to that.

16 Q. So you've seen some dryer catch on fire, and you're
17 saying that that's similar enough to have relevance in
18 the Hunter case?

19 A. Yes.

20 Q. What, other than --

21 A. It's the mechanism that we're talking about. The
22 mechanism works kind of irregardless of the dryer.

23 Q. I understand that you believe that fervently.

24 However, I'm going to require a little bit more
25 scientific rigor than that. And since your opinion in

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1 this case is related to the specific interplay of the
2 mechanisms and the seal and the air flow of the Hunter
3 case, my question is whether or not you have a test
4 that duplicates the multi-factorial issues in a fire?

5 A. You may not like the test, but I think the test
6 duplicates what happens in a dryer like that. It may
7 or it may not be in the same year dryer, it may not be
8 the same color dryer, but it simulates what happens.

9 Q. Oh, and I appreciate that it may not be the same
10 color. Thank you for that. Does it have all of the
11 other design and manufacturing and mechanical issues
12 that you've identified in points 1 through 9 of your
13 issues and complaints about the Hunter dryer?

14 A. I think they would be very similar.

15 Q. Yes, sir. And I appreciate that you think that they
16 would be very similar. But what have you done to
17 confirm that they are, in fact, not just similar but
18 the same so that those tests actually have scientific
19 applicability in this case?

20 A. I don't know how you could exactly replicate a dryer
21 of any kind.

22 Q. Yes, sir.

23 MS. EZELL: I'm sorry. Move to strike.

24 THE WITNESS: Every dryer has its -- you
25 want to have an answer to this, and you're going to

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1 get it. I don't understand how you could possibly
2 have a dryer --

3 MS. EZELL: Counsel, I'm sorry, could you
4 please help your witness?

5 MR. HESSEN: He's trying to answer the
6 question.

7 MS. EZELL: No, he's not. He's trying to
8 give some sort of dialogue that is totally
9 non-responsive.

10 BY MS. EZELL:

11 Q. Now, my question --

12 A. I'm not done yet.

13 Q. Yes, neither am I.

14 A. Are you going to shut up and let me answer the
15 question here or not?

16 MS. EZELL: Now, Counsel, I'm going to
17 insist that you instruct your witness not to be
18 abusive to me. I have -- I have sat here all day and
19 listened to him be non-responsive. I'm not going to
20 sit here and have this man talk to me and tell me to
21 shut up. That is completely inappropriate. There is
22 some decorum that is required in this proceeding, and
23 that is not appropriate.

24 MR. HESSEN: Are you going to let him
25 answer the question?

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1 MS. EZELL: I'm going -- I've asked you to
2 give him an instruction with regard to decorum. Now,
3 would you please read the question back.

4 (The requested portion of the record was
5 read by the reporter at 3:53 p.m. as
6 follows:

7 "Yes, sir. And I appreciate that you think
8 that they would be very similar. But what
9 have you done to confirm that they are, in
10 fact, not just similar but the same so that
11 those tests actually have scientific
12 applicability in this case?"

13 BY MS. EZELL:

14 Q. And I'll withdraw that question, and I'll ask you for
15 the document that shows the similarity between those
16 tests which you have identified and the conditions
17 which you have identified as being present in the
18 Hunter dryer.

19 A. I think you would have to look through the testing
20 binders, and I think you would probably find that
21 material.

22 Q. And, sir, you are the expert, and I'm asking you to
23 point me to anything in these testing binders that has
24 not just one piece of similarity but that has the
25 confluence of similarity which would make it relevant

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1 Q. And --

2 MR. HESSEN: Hold on. Counsel, please
3 stop. I'm going to object, because you're being
4 compound with your question and he's being compound
5 with his answer. Let's take it level by level.

6 MS. EZELL: That's an objection to form,
7 but it's a good one, so I appreciate that.

8 MR. HESSEN: Go back to the book. What was
9 the first question, Counsel?

10 BY MS. EZELL:

11 Q. Between December of 2001 and November of 2004.

12 A. The dryer that we used was not manufactured during
13 that period of time.

14 Q. So in all of your testing, you don't have a dryer that
15 resulted in a fire that was manufactured between the
16 time period that you've identified that has the too
17 thin and compressed seal issue from the Hunter case?

18 A. Actually, it does have a compressed seal with it, but
19 it was not manufactured during that period.

20 Q. Okay. My question was, if you'll recall, we
21 testify -- you testified earlier about a certain time
22 period which you identified was the time period that
23 the Hunter dryer fell into, that had a free-standing
24 gas dryer, and a too thin and compressed seal; do you
25 recall that?

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1 A. I do.

2 Q. And that was from December of 2001 to November of
3 2004. Is that -- did I write down those dates?

4 A. That's correct.

5 Q. Okay. So my first question is: Can you find a dryer
6 in your testing that you were able to duplicate a fire
7 manufactured between December of 2001 and November of
8 2004, and I understand your answer is no?

9 A. The answer is no.

10 Q. All right. Now, you have answered, however, that you
11 are able to find one that had a thin and compressed
12 seal; is that correct?

13 A. The dryer that was used had a thin and compressed
14 seal.

15 Q. And tell me what year of manufacture that dryer was.

16 A. 2007.

17 Q. Okay. However, that dryer, as we talked about
18 five hours ago, had a thin and compressed seal with a
19 different part and configuration than the thin and
20 compressed seal of the dryers in 2001, 2004 as a
21 result of another change in material; is that correct?

22 A. That's correct.

23 Q. All right, sir. Can you tell me -- and what are you
24 looking at there, please? What is the date and the
25 title of the test that you have flipped to in that

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1 Q. All right. First, can you tell me whether or not that
2 testing was done on a dryer manufactured by Electrolux
3 between December of 2001 and November of 2004?

4 A. It was not.

5 Q. Was it conducted on a dryer that was between
6 one-and-a-half and two-and-a-half years old?

7 A. It was new when we started.

8 Q. Did the dryer have a thin and compressed seal
9 condition?

10 A. Certainly not when we started.

11 Q. Did you manifest a thin and compressed seal condition
12 at any point during the testing?

13 A. Actually, it compressed during the course of the
14 testing.

15 Q. Is this a gas dryer?

16 A. Yes. I'm sorry. It's an electric dryer.

17 Q. This is an electric dryer?

18 A. Right.

19 Q. And does this have rigid or flexible venting?

20 A. Actually, it has metal venting, I believe. Metal
21 venting.

22 Q. But not flexible metal?

23 A. Not flexible.

24 Q. Okay. And so based on this testing that you did with
25 your lint accumulation study that you've just

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1 Q. Okay. Now, we've already discussed the fact that your
2 2006 report was later established to have been
3 incorrect. If this 2009 report is also incorrect with
4 regard to its analysis of the cause of the fire, have
5 you considered other potential causes of the Hunter
6 fire?

7 MR. HESSEN: Just since the issuance of
8 this report; is that what your question is?

9 MS. EZELL: No.

10 BY MS. EZELL:

11 Q. Just what other potential causes could there be for
12 the fire?

13 A. We have considered that and don't see that there is
14 another explanation for the Hunter fire.

15 Q. So what other potential causes did you consider and
16 rule out prior to the issuance of your 2009 report?

17 A. Well, I think if you take the -- take the cause in two
18 steps and say the cause is the lint is ignited, in
19 this case in the heater pan by the gas burner, and
20 blows through the -- through the drum either igniting
21 things in the drum or in the vent trap, I think that
22 there is pretty wide acceptance of that by Electrolux
23 experts, as well as by other people who are not
24 Electrolux experts. So I think that is pretty much a
25 given. What the -- what it really comes down to today

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1 is a debate between -- debate as to why that lint
2 accumulates. And Mr. Bajzek, Mr. King say that the
3 reason and the only reason is a restricted vent.
4 Electrolux's own documents shows that that's not true.
5 Air flow problems can be caused by other things, and
6 they say so in their service manual and they have for
7 years.

8 Then when you go back and look at it in
9 terms of when these fires occurred, when the dryers
10 were manufactured that have -- that sustained these
11 fires, and you see something which is not explicable
12 in terms of the venting, then it has to be something
13 different than that. And the thing that's different
14 than that is the time that they occur is the time when
15 the vent -- when the seal is -- was defective. And
16 that, to me, makes the case that it is the seal that
17 is the issue. Although I think probably venting can
18 contribute to it, as well. But people had bad vents
19 in 2000, and they had bad vents in 2009. But they
20 didn't have as many Electrolux dryer fires as they did
21 in those years, as they did in 2002, 2003, and 2004.

22 Q. But that prevalence issue is interesting, perhaps,
23 from a macro perspective. But I'm curious to
24 understand how that assists you in ruling out venting
25 as a causative issue as it relates to the Hunter fire.

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1 A. Okay. The Hunter fire, we know -- we know that the
2 Hunters have a flexible foil vent on it. She says
3 that. There's remains of it. All the evidence points
4 to that.

5 Q. Okay.

6 A. There is evidence that it largely burned up, which is
7 a pretty good indication that it doesn't have an awful
8 lot of lint in it, because lint will actually protect
9 surfaces for a while, which is why we find unburned
10 lint in the vent duct of many dryers, even after
11 extensive fires. We can reconstruct, by looking at
12 the photos, how this dryer was vented. And while it
13 has some turns in it, it's not essentially long, and
14 there's no reason to believe that it has accumulated
15 lint in it, plus the fact that she's not really having
16 problems with clothes not being dry, which is the
17 number one problem with an obstructive vent. She says
18 that they're not dry sometimes when she puts them in
19 for 15 minutes, and I don't think they're ever going
20 to be dry in 15 minutes. The dryer just doesn't work
21 that fast.

22 And so there is no evidence other than
23 Mr. Bajzek says, oh, look, it has a foil vent. You
24 can't have a foil vent. And it's long and it's
25 curved. It must have had lint in it. But there isn't

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1 anything that supports that. His answer is, well, it
2 had to be because you had a fire, and that's not --
3 you can't say that.

4 Q. But you'll agree that she said that her clothes
5 weren't drying?

6 A. She said that her clothes were not drying, but she was
7 putting them in for 15 minutes at a time, and they're
8 not going to dry in 15 minutes.

9 Q. Did you ask her why she was putting her clothes in for
10 15 minutes if she was expecting them to be dry?

11 A. I don't know that I asked her that, no.

12 Q. You work with dryers a lot. You talk to people who
13 have dryers a lot. Do people put their clothes in for
14 15 minutes and expect them to be dry?

15 A. There are a surprising number of people who do.
16 They'll put them in for 15 minutes and check, go for
17 another 15 minutes and check, and come back in another
18 15 minutes, and do it every day, and they're never
19 dry. I say, why don't you come back in a half an
20 hour? Well, I don't want them to get too dry.
21 Something happens to them when they get too dry, so I
22 check them. There are, it surprises me, a lot of
23 people that do that.

24 Q. But, nevertheless, one of the signs of improper
25 venting is your clothes don't dry, right?

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1 selection bias?

2 A. I am.

3 Q. What is that, as you understand it?

4 A. If you look at only certain things, then that's what
5 you're going to see is those. And so in a case like
6 this, you may be saying, well, you know, people are
7 only sending dryers that are manufactured in a
8 particular time frame to us, and so you see more of
9 those fires. You could say that would be a sampling
10 bias, but the problem is the people that send us the
11 dryer don't know how to date them.

12 Q. Right. Right. There's no question pending yet. The
13 only question was do you have a definition of a sample
14 selection bias. And the question is: Do you agree
15 that based on your unique position as it relates to
16 investigation of dryer fires, being a consultant
17 assigned predominantly to evaluate post-fire dryers,
18 that you have a sample selection bias as it relates to
19 dryer performance as opposed to dryer fires?

20 A. Well, I guess you could say that, you know, we're a
21 fire laboratory, and so we're going to see fire --
22 dryers that have fires. We're not going to see ones
23 that the heating element breaks and doesn't cause a
24 fire.

25 Q. And you don't see the ones that perform as designed

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CERTIFICATE OF NOTARY

STATE OF MICHIGAN)

) SS

COUNTY OF OTTAWA)

I, PEGGY S. SAVAGE, certify that this deposition was taken before me on the date hereinbefore set forth; that the foregoing questions and answers were recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to, either party nor interested in the event of this cause.

PEGGY S. SAVAGE, CSR-4189, RPR

Notary Public,

Ottawa County, Michigan.

My Commission expires: 7-13-13